IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE THOTTATHIL B.RADHAKRISHNAN

THURSDAY, THE 27TH SEPTEMBER 2007 / 5TH ASWINA 1929

RP.No. 917 of 2007(F)

AGAINST THE JUDGEMENT IN WPC.22522/2007 DTD.13/08/2007
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REVIEW PETITIONER/PETITIONER:

K.S.RAJACHANDRAN, S/O SANKARAN,
KOTTARAPPATTU HOUSE P.O., AKKIKKAVU,
THRISSUR DISTRICT.

BY ADV. SRI.K.K.MOHAMED RAVUF

RESPONDENTS: RESPONDENTS:
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1. **THE VILLAGE OFFICER,**
   KUNNAMKULAM, THRISSUR DISTRICT.

2. **THE TAHSILDAR, THALAPPILLY TALUK,**
   VADAKKANCHERRY, THRISSUR DISTRICT.

3. **STATE BANK OF TRAVANCORE,**
   KUNNAMKULAM BRANCH, KUNNAMKULAM,
   THRISSUR DISTRICT. REP. BY ITS
   CHIEF MANAGER.

BY ADV. SRI. SANTHOSH MATHEW

THIS REVIEW PETITION HAVING COME UP FOR ADMISSION ON 27/09/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

KSS

Thottathil B. Radhakrishnan, J.

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R.P.No.917 of 2007
in
W.P.(C)No.22522 of 2007

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Dated this the 27th day of September, 2007.

ORDER

This is an application filed by the writ petitioner for review of judgment.

2. Writ petition was filed alleging that appropriate action is not being taken under the Transfer of Registry Rules following a transfer in his favour on the strength of a court sale. The additional third respondent, State Bank of Travancore holds out an equitable mortgage and a consequential recovery certificate and sale proclamation by the Debts Recovery Tribunal. It was not necessary for this Court to decide on the priorities between the petitioner and the third respondent to hold title to property. Accordingly, the revenue authorities were left with the liberty to consider the question of issuance of possession certificate in terms of law without prejudice to the right of the third respondent State

Bank of Travancore for appropriate action against the hypotheca.

3. Since it was apparent that the rights of parties will have to be determined by the competent courts, it was directed that the writ petitioner shall not alienate or encumber the properties for a period of two years and the rights of parties, including the right to deal with the property, should be governed by the decision of the appropriate authorities/courts, which may be moved by the parties for adjudication of their rival claims.

4. This review petition is filed on the premise that by imposing a restriction on transfer, this Court had given a long rope for the third respondent Bank to cling on to the dispute without finally settling it and that the period of two years fixed by this Court is a period within which the Bank may commence the litigation.

5. This review petition filed on the aforesaid premise is wholly misconceived. This is because, the restriction on alienation imposed as per the last sentence in the judgment sought to be reviewed is not the fixation of a period to commence the litigation. It is not within the province of the courts to direct the period of limitation for any litigation since that is a matter governed by law of limitation, as may be applicable. That apart, it is not as if the writ petitioner has to await a suit or other proceedings at the instance of the Bank because the writ petitioner, being a rival claimant, is also entitled to sue. Not only that, the restriction on alienation for a period of two years was only on the premise that, in the meanwhile, the competent courts would conclude on the issue as to the rival claims, if properly and timely raised.

Under such circumstances, I do not find any ground to review the judgment. However, it is clarified that the restriction on alienation for a period of two years

in the last sentence of the judgment sought to be reviewed would depend on any decision by the appropriate authorities or courts even if such decisions are rendered earlier. This means that, if either among the petitioner or the third respondent obtains an adjudication of the claims and such decisions are rendered even before the period of two years covered by the last sentence of the judgment sought to be reviewed, the restriction on alienation would then be governed by such decision of the appropriate authorities/courts.

Thottathil B.Radhakrishnan,
Judge.

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